

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419

Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**PLAINTIFFS' STEERING COMMITTEE'S MOTION FOR ORDER ON FILING
EXHIBITS WITH SHORT FORM COMPLAINTS**

The Plaintiffs' Steering Committee ("PSC") hereby moves the Court for the entry of the attached order related to a plaintiffs filing exhibits with the short form complaint. Specifically, Tenn. Code Annotated §§ 29-26-121 and 122 require a plaintiff to "file" with a complaint certain documents showing compliance with those provisions. Specifically, Tenn. Code Ann. § 29-26-121(b) states that a complaint must "provide the [pre-suit notice] specified in [Tenn. Code Ann. § 29-26-121(a)(2)]." Generally, a party satisfies this obligation by attaching to the complaint as an exhibit the documentation contemplated by Tenn. Code Ann. § 29-26-121(a). Additionally, Tenn. Code Ann. § 29-26-122(a) states that the "plaintiff or plaintiff's counsel shall file a certificate of good faith with the complaint." Generally, a party satisfies this obligation by attaching the certificate of good faith with the complaint.

Given the number of parties in this litigation the filing, of these exhibits can be administratively burdensome. Accordingly, for those plaintiffs that have previously filed as exhibits to a complaint or amended complaint, the documents contemplated by Tenn. Code Ann. §§ 29-26-121 and 122, the PSC respectfully requests that plaintiffs be permitted to merely reference those exhibits from the previously filed complaints in lieu of physically attaching them

to the short form complaint. The PSC believes that this process comports with the spirit of the short form complaint process.

The PSC reached out to counsel for parties representing the Tennessee Defendants to reach a resolution of this issue, but has not heard back from counsel.¹ Given the looming December 20, 2013 deadline, the PSC respectfully requests that the Court enter the proposed order as soon as practicable.

Date: December 12, 2013

Respectfully submitted:

/s/ J. Gerard Stranch, IV
J. Gerard Stranch, IV
Benjamin A. Gastel
BRANSTETTER, STRANCH &
JENNINGS, PLLC
227 Second Avenue North
Nashville, TN 37201
Telephone: 615/254-8801
Facsimile: 615/255-5419
gerards@branstetterlaw.com

Plaintiffs' Steering Committee and Tennessee State Chair

Thomas M. Sobol
Kristen Johnson Parker
HAGENS BERMAN SOBOL SHAPIRO, LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Telephone: 617/482-3700
Facsimile: 617/482-3003
tom@hbsslaw.com
kristenjp@hbsslaw.com

Plaintiffs' Lead Counsel

¹ See Declaration of Benjamin A. Gastel, attached hereto as Exhibit A, at ¶ 2 and Exhibit A.

Elizabeth J. Cabraser
Mark P. Chalos
LIEFF CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111
Telephone: 415/956-1000
Facsimile: 415/956-1008
ecabraser@lchb.com
mchalos@lchb.com

Federal/State Liaison

Marc E. Lipton
LIPTON LAW
18930 W. 10 Mile Road
Southfield, MI 48075
Telephone: 248/557-1688
Facsimile: 248/557-6344
marc@liptonlaw.com

Kimberly A. Dougherty
JANET, JENNER & SUGGS, LLC
31 St. James Avenue, Suite 365
Boston, MA 02116
Telephone: 617/933-1265
kdougherty@myadvocates.com

Mark Zamora
ZAMORA FIRM
6 Concourse Parkway, 22nd Floor
Atlanta, GA 30328
Telephone: 404/451-7781
Facsimile: 404/506-9223
mark@markzamora.com

Patrick T. Fennell
CRANDALL & KATT
366 Elm Avenue, S.W.
Roanoke, VA 24016
Telephone: 540/342-2000
Facsimile: 540/400-0616
pfennell@crandalllaw.com

Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I, J. Gerard Stranch, IV, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: December 10, 2013

/s/ J. Gerard Stranch, IV

J. Gerard Stranch, IV